

Exhibit 8

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In the Matter Of:

EMILY FORSYTHE vs

WAYFAIR, LLC

JIM LOWE

August 31, 2020



<p style="text-align: right;">13</p> <p>1 Q Right. Why don't you -- it may be easier 2 for -- to just go sentence by sentence. Do you mind, 3 please? And then I think that's going to be a better 4 record. So do you mind? The first sentence, I'll just 5 ask it. Did you approach her and ask her if the two of 6 you could talk? 7 A Yes. 8 Q Did you go into a room with her after you said 9 that to her? 10 A Yes. 11 Q Did you ask her if she was aware of what was 12 going on with Mr. McDole? 13 A I asked her if she was aware that Mike did not 14 want her on site. 15 Q Okay. And then it says [as read]: Jim said 16 he thought I should know Mike is trying to torpedo my 17 projects and career. 18 Do I understand you to say that you told her 19 that you didn't want somebody's career disrupted? 20 MS. KAPPELMAN: Object to the form of the 21 question. That's not what he said. Why don't you 22 just ask him what he said? 23 BY MR. GOODMAN: 24 Q You can answer. 25 A I said I didn't want to see anybody's career</p>	<p style="text-align: right;">15</p> <p>1 BY MR. GOODMAN: 2 Q The thrust of -- 3 MS. KAPPELMAN: But you're putting words in 4 his mouth. He's already testified. Stop 5 mischaracterizing his testimony. Ask him what he 6 said. 7 MR. GOODMAN: I'm not mischaracterizing his 8 testimony at all. 9 BY MR. GOODMAN: 10 Q [As read]: Jim said he didn't think it was 11 right for him to stand by and watch this happen without 12 saying something. 13 That reflects that a statement was made that 14 you didn't want her to know something -- you didn't want 15 her to be blind to something that may have been going 16 on; correct? 17 MS. KAPPELMAN: Are you asking him if he said 18 that or what she means by that? 19 MR. GOODMAN: That's what that -- 20 MS. KAPPELMAN: Your question makes zero 21 sense. 22 BY MR. GOODMAN: 23 Q Mr. Lowe, Ms. Kappelman is, from my 24 standpoint, interfering in this deposition in an 25 improper way. But I'm asking you, the sentence that</p>
<p style="text-align: right;">14</p> <p>1 destroyed. 2 Q Okay. And then it says [as read]: Jim said 3 he didn't think it was right for him to stand by and 4 watch this happen without saying something. 5 Did you say that? 6 A I said I did not want to be caught in the 7 middle of any conflicts within the workplace. 8 Q Okay. Did you -- so are you denying saying I 9 didn't -- you didn't think it was right for him to stand 10 by and watch this happen without saying something? 11 A I didn't think it was right for me to be 12 caught in the middle. 13 Q Okay. 14 A And -- and, yeah. Specifically, I don't 15 recall 100 percent of what I said, word for word. I 16 really don't. 17 Q Well, you would agree with me, wouldn't you, 18 that the thrust of the statement "Jim said he didn't 19 think it was right" was that -- that something needed to 20 be said for her to be aware of what was going on that 21 she may not have been aware of -- 22 MS. KAPPELMAN: Bob, are you testifying? I'm 23 not really sure what you're doing. 24 MR. GOODMAN: I get to ask -- I get to ask 25 leading questions on cross examination.</p>	<p style="text-align: right;">16</p> <p>1 said "Jim didn't think it was right for him to stand by 2 and watch this happen without saying something" refers 3 to you not wanting to have something happen without 4 Emily knowing about it; correct? 5 MS. KAPPELMAN: Bob, objection. That makes no 6 sense. 7 You can answer if you understand the question, 8 Jim. 9 BY MR. GOODMAN: 10 Q You can answer. 11 A I can't speak to what Emily interpreted or 12 what her thoughts are in the sentence. 13 Q Okay. But you -- 14 A I can -- I can testify as to, you know, what 15 my intent was with anything that I said. And that was 16 to eliminate any conflict in the workplace. 17 Q Right. 18 A I don't know what conflict was. I don't know 19 what the context of any disagreements were. I was aware 20 that Michael did not want her on site. And that's about 21 all I was aware of. 22 Q Are you -- the sentence that says "Jim said he 23 didn't think it was right," are you denying that you 24 said that to Emily? 25 A Correct.</p>

<p style="text-align: right;">33</p> <p>1 Q Did you ever talk with Trevor Shaffer-Figueroa</p> <p>2 about Mr. -- about Ms. Forsythe?</p> <p>3 A No, I did not.</p> <p>4 Q You know who I'm referring to; right?</p> <p>5 A Yes.</p> <p>6 Q Okay. He never -- he never attempted to reach</p> <p>7 you to talk to you about Ms. Forsythe?</p> <p>8 A He did ask me if I observed any interactions</p> <p>9 between the two of them.</p> <p>10 Q Then I don't understand your answer a minute</p> <p>11 ago. Did you talk to him about Emily Forsythe?</p> <p>12 A Well, sorry. I took it as you asking me if I</p> <p>13 approached him or had any specific conversation in</p> <p>14 detail about Emily in particular. I'm aware that he was</p> <p>15 doing an investigation of a report and a lot of details</p> <p>16 were not shared with me because that's just privacy</p> <p>17 information.</p> <p>18 He asked me if I observed any interactions</p> <p>19 whatsoever between Mr. McDole and Ms. Forsythe.</p> <p>20 Q And what did you tell him?</p> <p>21 A No, I had not because I had not observed any</p> <p>22 interactions between the two of them.</p> <p>23 Q Was there any question and answer between you</p> <p>24 and Mr. Figueroa besides that one question and one</p> <p>25 answer?</p>	<p style="text-align: right;">35</p> <p>1 MR. GOODMAN: I do.</p> <p>2 MS. KAPPELMAN: For a deposition?</p> <p>3 MR. GOODMAN: I do.</p> <p>4 MS. KAPPELMAN: Do you think she would be</p> <p>5 disappointed to hear your testimony? Do you think</p> <p>6 that's an appropriate question for a deposition?</p> <p>7 MR. GOODMAN: I certainly do. I think it's an</p> <p>8 appropriate question in trial and an appropriate</p> <p>9 question --</p> <p>10 (Overspeaking.)</p> <p>11 MS. KAPPELMAN: You can answer, Mr. Lowe.</p> <p>12 It's the most outlandish question I've heard at a</p> <p>13 deposition, but you can answer.</p> <p>14 THE WITNESS: I can't speak to somebody else's</p> <p>15 feelings.</p> <p>16 BY MR. GOODMAN:</p> <p>17 Q Okay. Well, if -- if somebody with whom you</p> <p>18 worked claimed that you had said things or not said</p> <p>19 things contrary to the actual conversation, would you be</p> <p>20 disappointed in them?</p> <p>21 MS. KAPPELMAN: Object to the form of the</p> <p>22 question, Bob. It makes no sense.</p> <p>23 Go ahead, Jim. You can answer if you think</p> <p>24 you know what he's saying.</p> <p>25 BY MR. GOODMAN:</p>
<p style="text-align: right;">34</p> <p>1 A That's what I recall.</p> <p>2 Q Did he tell you what he was investigating?</p> <p>3 A A complaint was all he elaborated.</p> <p>4 Q Did you ever discuss Ms. Forsythe with</p> <p>5 Mr. McDole?</p> <p>6 A No, other than the occasion of the question</p> <p>7 about asking her emails, or the question -- the project</p> <p>8 questions that he emailed to her and she emailed -- she</p> <p>9 asked me.</p> <p>10 Q Before --</p> <p>11 A Other than that, no.</p> <p>12 Q Before Ms. Forsythe told you her employment</p> <p>13 had terminated, did you speak with anybody about</p> <p>14 Ms. Forsythe that we haven't discussed today?</p> <p>15 A No.</p> <p>16 Q Have you talked with Emily since her</p> <p>17 employment ended?</p> <p>18 A No.</p> <p>19 Q Do you -- do you think she would be</p> <p>20 disappointed to hear the extent of which you deny what</p> <p>21 she put in her memo about your conversation with her on</p> <p>22 August 21, 2019?</p> <p>23 MS. KAPPELMAN: Object to the form of the</p> <p>24 question. Do you really think that's an</p> <p>25 appropriate question?</p>	<p style="text-align: right;">36</p> <p>1 Q When people don't tell the truth, are you</p> <p>2 disappointed in them?</p> <p>3 MS. KAPPELMAN: Object to the form of the</p> <p>4 question. That's the third question that is</p> <p>5 unrelated to the first two.</p> <p>6 BY MR. GOODMAN:</p> <p>7 Q Mr. Lowe --</p> <p>8 MS. KAPPELMAN: Is that the question -- is</p> <p>9 that the question you want him to answer or do you</p> <p>10 want him to answer the other two questions?</p> <p>11 BY MR. GOODMAN:</p> <p>12 Q I replaced the question.</p> <p>13 Mr. Lowe, when somebody you work with and</p> <p>14 somebody you know doesn't tell the truth about a</p> <p>15 conversation they had with you, does that disappoint</p> <p>16 you?</p> <p>17 MS. KAPPELMAN: Are you suggesting that</p> <p>18 Mr. Lowe is not telling the truth, Bob? Is that</p> <p>19 what that -- is that what that question is</p> <p>20 suggesting?</p> <p>21 BY MR. GOODMAN:</p> <p>22 Q You can answer, Mr. Lowe.</p> <p>23 MS. KAPPELMAN: Are you suggesting that</p> <p>24 Mr. Lowe did not tell the truth here under oath in</p> <p>25 this deposition? That's my question.</p>

<p>37</p> <p>1 MR. GOODMAN: I'm not -- I'm not the deponent 2 here. 3 BY MR. GOODMAN: 4 Q Mr. Lowe, can you answer the question? 5 MS. KAPPELMAN: I'm just asking you, is that 6 the question? Are you suggesting -- 7 (Overspeaking.) 8 MR. GOODMAN: You can ask me all day. But I'm 9 not here to answer questions. I'm here to ask 10 questions. 11 MS. KAPPELMAN: But if you are saying that my 12 witness lied under oath, I'm going to direct him 13 not to answer under the Fifth. You're suggesting 14 that Mr. Lowe perjured himself today and I'm not 15 going to let him answer that question because 16 that's what it implies. 17 BY MR. GOODMAN: 18 Q Mr. Lowe, I'll restate -- I'll restate the 19 question. 20 When somebody you know describes a 21 conversation you had with them in a completely different 22 way than it actually happened, are you disappointed in 23 them? 24 A How it actually happened versus somebody's 25 interpretation of a conversation?</p>	<p>39</p> <p>1 If you understand that at all, Jim, go ahead 2 and answer. 3 THE WITNESS: I would say I suppose. 4 MR. GOODMAN: Okay. Pass the witness. 5 CROSS EXAMINATION 6 BY MS. KAPPELMAN: 7 Q I'm going to ask you a couple questions 8 actually about Ms. Forsythe, if you don't mind, Jim. 9 A Okay. 10 Q And it's just a couple. 11 And the questions are this: Do you recall the 12 conversation that you had with Ms. Forsythe about the 13 conflicts she was having in the workplace with 14 Mr. McDole; correct? 15 A Yes. 16 Q And that's the conversation that we were 17 talking about earlier today in your deposition? 18 A Yes. 19 Q During that conversation, did you ever tell 20 Ms. Forsythe that Mr. McDole was sabotaging her career? 21 A No. I said I -- 22 Q Go ahead. Sorry to interrupt you. Please, 23 please. 24 A I did not want to see anybody's career 25 sabotaged.</p>
<p>38</p> <p>1 Q Yes. 2 A I don't really put much into it. Everybody 3 has a different interpretation of how a conversation 4 went. 5 Q I'm not asking about interpretation because 6 you excluded that as a possibility. When somebody says 7 that you said something to them which you didn't say, 8 does that disappoint you? 9 A It does not disappoint me, no. 10 Q Because you have no trust in people you work 11 with? 12 MS. KAPPELMAN: Really? Do you have a real 13 question, Bob? I think you could probably come up 14 with a real question that has something to do with 15 this case. 16 BY MR. GOODMAN: 17 Q You can answer, sir. 18 A I've had plenty of conversations where the 19 opposite party had a different memory of the 20 conversation than I did. 21 Q You prefer working with people who have the 22 same memory of conversations you have with them, don't 23 you? 24 MS. KAPPELMAN: Object to the form of the 25 question.</p>	<p>40</p> <p>1 Q Okay. And at any point other than that 2 conversation, did you tell Ms. Forsythe that you thought 3 Mr. McDole was trying to ruin her career? 4 A No, I never said that. 5 Q Okay. Did you tell her -- did you say to her 6 that you thought she was trying to ruin Mr. McDole's 7 career? 8 A No, I did not say that. 9 Q Okay. 10 A Or anything similar to that. 11 Q For the record -- for the record, what did you 12 say to Ms. Forsythe during the conversation that we were 13 discussing earlier today with Mr. Goodman, in your 14 words? 15 MR. GOODMAN: Objection, asked and answered. 16 You can answer. 17 THE WITNESS: I asked her if she was aware 18 that Michael had requested that she not be allowed 19 to come to this site. She said, "No, I was not 20 aware of that." I said, "I don't know what the 21 issue is between the two of you, but I do not want 22 to see anybody's career sabotaged. It looks bad 23 for everybody. And I definitely do not want to be 24 caught in the middle of it." 25 BY MS. KAPPELMAN:</p>